



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,432	12/28/2000	Lynh Nguyen	ST9-99-134US2	7994

23373 7590 12/22/2004

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

JAROENCHONWANIT, BUNJOB

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,432

Applicant(s)

NGUYEN, LYNH

Examiner

Bunjoo Jaroenchonwanit

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/28/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2143

Detailed Action

1. The application has been reviewed. Claims 1–36 are pending for examination. The rejections and objected cited are as state below.

Priority

2. Priority, applicant claimed DIV, is acknowledge, however, the voluntarily filed DIV would not preclude the parent application from applying against the instant claims, if they are applicable (See MPEP 804.01).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-7, 10-11 17-18 and 29-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 5 recites the limitation "wherein at least one of the parameters" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claims 6, 17, 29 recite the limitation "wherein the number of parameters" in line 1. There is insufficient antecedent basis for this limitation in the claim.

7. Claims 7, 18, 30, recite the limitation "wherein the types and number of parameters" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2143

8. Claim 10 recites the limitation "wherein the arbitrary set of parameters" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-76 of co-pending Application No. 09/614,534 and claims 1-19 of co-pending Application No. 09/750,475. Although the conflicting claims are not identical, they are not patentably distinct from each other

Art Unit: 2143

because this instance, the independent claims either broadened the claims in the copending application or included an obvious limitation, such as, requiring a log file, containing user selectable parameters, which routinely utilized in the database environment.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1 are rejected under 35 U.S.C. 102(e) as being anticipated by Polizzi et al (US. 2002/0023158).

13. Claims 1-4, 8, 10-15, 19, 21-27, 31 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polizzi et al (US 2002/0023158).

14. Regarding claims 1, 8, 19 and 31, Polizzi discloses a method, apparatus and program product (hereinafter a “system”) comprising:

providing at least one interface module configured to interface with a remote application (105, fig.);

providing port module to interface between interface module and data source (agent, 130, fig. 1);

Providing a connection manager to interface between the interface module and port module (service broker 125 fig. 1; paragraph. 21).

15. Regarding claims 2-3, 10, 14, 21, 25 and 33, Polizzi, further, teaches a log containing an arbitrary set of parameters to reflect connection between remote application and data sources (paragraph. 61).

16. Regarding claims 4, 15 and 26-27, Polizzi discloses the service broker control connection between interface and agent, thus agent communicates with data source and web client communicate with remote browser in a client terminal without server control.

17. Regarding claims 11, 22 and 34, Polizzi discloses the parameter include data and time (paragraph 61).

18. Regarding claims 12, 23 and 35, Polizzi discloses the parameters are arranged in hierarchical relation (Fig. 5).

19. Regarding claims 13, 24 and 36, Polizzi discloses at least one parameter relate to output device (database server, Fig. 6).

Art Unit: 2143

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 5-7, 9, 16-18, 20, 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polizzi et al (US. 2002/0023158).

22. Regarding claims 5, 16 and 28, Polizzi discloses the invention substantially, as claimed, as described, including but does not explicitly disclose the group of parameter consisting of a present SQL request, a warning message, an error message, a date, a time, a previous SQL request, a feature database schema and a number of records. However, including, various parameters in a group of parameter would have been obvious to one of ordinary skill in the art that was matter of design choice, which inclusion of parameters is dictated by objective or the applications.

23. Regarding claims 6-7, 17-18 and 29-30, Polizzi discloses the system substantially, including log file contain parameters, Even though Polizzi does not explicitly discuss about reducing processing time by limiting number of parameter selected and reflected history by expanding type and number of parameter. However, such claimed feature is either inherent or implied a by-product of the system that capable of maintaining log file. Thus to expand history of interaction with number and type of parameter and limited processing time by controlling number of selecting parameters would have been obvious to one of ordinary skill in the art that was a matter of implementations choice, does not require any inventive step beside having a user

Art Unit: 2143

to specify number and type of parameters. Such specifying, in fact, routinely user in searching sorting filtering data, record from all forms of database. Claims are rejected.

24. Regarding claims 9, 20, 32, Polizzi discloses the invention substantially, as claimed, as described, including hosting interface module is separate computer from data source. Polizzi does not explicitly disclose the interface is hosted in the data source computer. However, relocating interface module from other computer to data source computer is merely a part rearranging parts, which does not modify operation of the device, i.e., no matter where the interface module located it's connectivity to the port module still is being control by connection manager, which court held that is unpatentable (*In re Japikse*, 18 F.2d 1019,86 USPQ 70 (CCPA1950)).

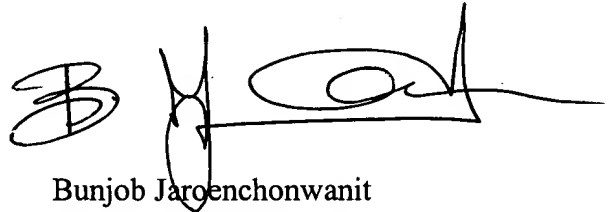
25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571) 272-3913. The examiner can normally be reached on 8:00-17:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions

Application/Control Number: 09/750,432

Page 8

Art Unit: 2143

on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a stylized 'B' followed by a series of loops and a long horizontal stroke.

Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
12/11/04